

IT FURTHER APPEARING TO THE COURT that Plaintiff alleges that Kaelyn Barr, Mr. Kaelyn Barr, Evan Barr, Shea Barr, and Cameron Barr “reside[] at either the Mortgaged Premises of 172 Cohawkin Road, Clarksboro, New Jersey, Township of East Greenwich, Gloucester County or 731 Providence Road, Malvern, Pennsylvania 19355,” Am. Compl. ¶¶ 4, 5, 6, 8, 10, and that Kaelyn, Evan, Shea, and Cameron Barr are all “citizen[s] of either Pennsylvania or New Jersey,” Id. at ¶¶ 15-19, and that the Amended Complaint does not allege the citizenship of Mr. Kaelyn Barr; and

IT FURTHER APPEARING TO THE COURT that Plaintiff later avers that “none of the Defendants occupy the Mortgaged Premises,” Doc. No. 18;

IT FURTHER APPEARING TO THE COURT that, for Kaelyn Barr, Mr. Kaelyn Barr, Evan Barr, Shea Barr, and Cameron, the process server’s affidavits indicate that Brian T. Barr was served on their behalf, and also explain that “I also attempted to serve the defendant listed above at the property address but [s]he does not live there,” Doc. No. 15; and

IT FURTHER APPEARING TO THE COURT that Plaintiff moves to dismiss Defendants Mrs. Evan Barr, Mr. or Mrs. Shea Barr, and Mr. or Mrs. Cameron Barr, “because such Defendants do not exist,” Doc. No. 18; and

THE COURT NOTING that “[b]efore entering a default judgment against a party that has not filed responsive pleadings, ‘the district court has an affirmative duty to look into its jurisdiction both over the subject matter and the parties,’” Bank of Am., N.A. v. Hewitt, No. 07-4536, 2008 U.S. Dist. LEXIS 90719, at *5 (D.N.J. Nov. 7, 2008) (quoting Williams v. Life Sav. & Loan, 802 F.2d 1200, 1203 (10th Cir. 1986)); and

THE COURT NOTING FURTHER that “mere residency in a state is insufficient for purposes of diversity,” see Krasnov v. Dinan, 465 F.2d 1298, 1300 (3d Cir. 1972) (citing Sun Printing & Publ’g Ass’n v. Edwards, 194 U.S. 377 (1904))¹; and

¹ The Third Circuit has established the following standard to determine a party’s citizenship:

Citizenship is synonymous with domicile, and the domicile of an individual is his true, fixed and permanent home and place of habitation. It is the place to which, whenever he is absent, he has the intention of returning. In determining an individual’s domicile, a court considers several factors, including declarations, exercise of political rights, payment of personal taxes, house of residence, and place of business. Other factors to be considered may include location of brokerage and bank accounts, location of spouse and family, membership in unions and other organizations, and driver’s license and vehicle registration.

McCann v. Newman Irrevocable Trust, 458 F.3d 281, 286 (3d Cir. 2006) (internal citations and quotations omitted).

THE COURT FINDING that Plaintiff has not adequately pleaded the citizenship of all Defendants, and therefore has not properly alleged the Court's diversity jurisdiction over this matter; and

IT IS HEREBY ORDERED that Plaintiff must show cause, upon pain of dismissal, by written submission on or before **May 18, 2012**, why this matter should not be dismissed for lack of subject matter jurisdiction; and

IT IS HEREBY FURTHER ORDERED that Plaintiff's motion for default judgment (Doc. No. 19) is **DISMISSED AS MOOT**; and

IT IS HEREBY FURTHER ORDERED that Plaintiffs motion to dismiss Defendants Mrs. Evan Barr, Mr. or Mrs. Shea Barr, and Mr. or Mrs. Cameron Barr (Doc. No. 18) is **GRANTED**.

Date: 5/3/2012

/s/ Robert B. Kugler
ROBERT B. KUGLER
United States District Judge